

Senate Bill 164
January 15, 2009
Presented by Chas Van Genderen
Senate Fish and Game Committee

Mr. Chairman and committee members, for the record I am Chas Van Genderen, Acting Parks Division Administrator of Montana Department of Fish, Wildlife & Parks (FWP).

FWP stands in opposition to this bill. Senate Bill 164 seeks to expand the existing Good Neighbor Policy beyond parks and fishing access sites to address issues that are currently being managed well or are already addressed by existing statutes.

FWP was recently audited for weed management in State Parks and Fishing Access Sites. That audit found that FWP has controls in place to manage weeds & is following the good neighbor policy. While the audit did have some recommendations for tightening up management, they were related to better paperwork & communication, not a lack of effectiveness.

SB164 would also reorder the existing law defining maintenance to make weed control the number one priority. Weeds are clearly a priority but they are being controlled currently. Also, other priorities may well be more important at any given time. For example, cleaning a toilet, cutting diseased trees and repairing an unsafe playground are vitally important to public health and safety. Under this bill these tasks would become secondary. When staff come across a meth lab dump, as they have in the past, is that secondary to weed control? Maintenance crews are working hard to balance priorities every day and are using good judgement. This bill seems like a solution looking for a problem.

SB 164 would also require the state to tack an additional 40% above the purchase price onto any lands or water rights purchased for maintenance and operations of the site following purchase. It is unclear as to how, under law, monies would be appropriated. It is not necessary to place this clause in the bill. Sites purchased in last year under the Access Montana program have implementation plans in place for weed control, signing and fencing to assure the existing good neighbor law is followed. Additionally, this direction causes fiscal concerns. Previous legislatures have already statutorily earmarked some funding sources to deal with this issue. For example, Habitat Montana funds only allow for 20 % of the total fund to be used for operations.

Finally, the bill requires the state to use monies from the sale of any lands or water rights for maintenance of other lands in the department's possession. Once again, previous Legislatures have set up the real property trust account in statute. That law already directs the department to deposit state monies from the sale of real property into an interest bearing account. Interest from that account is already required to be used for operation and maintenance of real property. Additionally, when a site that was purchased with federal funds is sold, the proceeds from that sale under federal rule can only go back into purchasing another piece of like property.

In summary, the audit shows that FWP is both controlling weeds and following the existing good neighbor policy law. SB 164 attempts to fix things that are not broken and creates conflicts with existing laws and rules.